

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

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UNITED STATES OF AMERICA,

-against-

ORDER
02 CR 1249 (ADS)

WILLIAM TURCIOS,

Defendant.

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APPEARANCES

WILLIAM TURCIOS

Pro Se Defendant
Fed. Reg. #68253-053
FCI-Fairton
P.O. Box 420
Fairton, New Jersey 08320

RICHARD HOFFMAN, ESQ.

Attorney for the Defendant
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**ROSLYNN R. MAUSKOPF, UNITED STATES ATTORNEY
EASTERN DISTRICT OF NEW YORK**

610 Federal Plaza
Central Islip, NY 11722

By: Richard P. Donoghue, Assistant U.S. Attorney

SPATT, District J.

William Turcios (the “Defendant”) submits this post-sentence motion for an order directing the Bureau of Prisons to award him sentence credit for the period beginning on June 27, 2002. However, the Court is without discretion to compute sentencing credit

unless the defendant has exhausted his administrative remedies. United States v. Whaley, 148 F.3d 205, 207 (2d Cir. 1998). This includes submitting a request to the Warden of the facility where the defendant is incarcerated and appealing that decision to the Regional Director and finally to the General Counsel in the Central Office. See 28 C.F.R. § 542.15.

The Defendant indicates in his motion that he submitted an administrative request to the Warden of FCI Fairton where he is incarcerated. That request was denied. A review of the Bureau of Prison database reveals that the Regional Director denied the Defendant's first appeal of that decision in November 2004. The Defendant subsequently filed his second appeal with the Central Office. In January 2005, that appeal was rejected with instructions to resubmit the appeal with the required paperwork. According to the Government, the Defendant has not yet refiled his appeal.

In order for this Court to have jurisdiction, the Defendant must receive an adverse decision from the Central Office. Accordingly, the Defendant's request is DENIED.

SO ORDERED.

Dated: Central Islip, New York
April 25, 2005

/s/ Arthur D. Spatt
ARTHUR D. SPATT
United States District Judge